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Intellectual Property Administration  
P.O. Box 272400  
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Docket No.: 10004878-1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Jacklyn M. Dowdy

Application No.: 09/774,728

Confirmation No.: 2670

Filed: January 31, 2001

Art Unit: 2625

For: ANTI-COUNTERFEITING METHOD AND  
SYSTEM

Examiner: S. H. Azarian

**APPEAL BRIEF**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on November 10, 2005, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

- I. Real Party In Interest
- II. Related Appeals, Interferences, and Judicial Proceedings
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal

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VII.	Argument
VIII.	Claims
IX.	Evidence
X.	Related Proceedings
Appendix A	Claims
Appendix B	Evidence
Appendix C	Related Proceedings

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Hewlett-Packard Development Company, L.P., a Texas Limited Partnership having its principal place of business in Houston, Texas.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 20 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 0
2. Claims withdrawn from consideration but not canceled: 0
3. Claims pending: 1-20
4. Claims allowed: 0
5. Claims rejected: 1-14, 16, and 18-20
6. Claims objected to: 15 and 17

C. Claims On Appeal

The claims on appeal are claims 1-14, 16, and 18-20.

IV. STATUS OF AMENDMENTS

Applicant did not file an Amendment After Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

According to the embodiments of claim 1, an anti-counterfeiting method (12 of figure 2) comprises creating from an object a first data (14 of figure 1) set having data in a first data arrangement (38 of figure 2 and page 6, lines 14-16). The method further includes modifying the data within said first data set to create a second data arrangement for said first data set (48 of figure 2 and page 6, lines 16-24), and determining whether data on an object presented for validation is consistent with the data of the first or second data arrangement for said first data set by comparing said object presented for validation to both said first and said second data arrangements (54 of figure 2 and page 8, lines 7-15). Further, if the data on said object presented for validation is determined to be consistent with the data of the first or second data arrangement for said first data set, accepting said object presented for validation, else rejecting said object presented for validation (36 of figure 1, 54 of figure 2, and page 9, lines 11-20).

According to the embodiments of claim 3, the data within the first data set is modified every time an object is provided with the first data set (page 13, lines 5-16).

According to the embodiments of claim 4, an attribute of the data within said first data set is modified every time an object is provided with said first data set (page 13, lines 5-16).

According to the embodiments of claim 5, if the data on said object presented for validation is determined to be consistent with the data of the first data arrangement for said first data set, the method includes: determining whether another object having the first data set in the first data arrangement has previously been accepted, rejecting said object presented for validation if it is determined that another object having the first data set in the first data arrangement has previously been accepted. Further, if the data on said object presented for validation is determined to be consistent with the data of the second data arrangement for said first data set, then the method includes determining whether another object having the first data set in the second data arrangement has previously been accepted and rejecting said object presented for validation if it is determined that another object having the first data set in the second data arrangement has previously been accepted (page 8, line 27 through page 9, line 30).

According to the embodiments of claim 6, the at least one object includes a memory, and providing at least one object with said first data set comprises transferring the first data set to the memory (page 8, lines 8-9).

According to the embodiments of claim 9, a method includes providing a plurality of objects with said first data set, and wherein the data within said first data set is modified after a preset number of the plurality of objects have been provided with said first data set (page 14, lines 3-19).

According to the embodiments of claim 10, if the data on said object presented for validation is determined to be consistent with the data of the first data arrangement for said first data set, the method includes determining whether a preset number of other objects having the first data set in the first data arrangement have been accepted, rejecting said object presented for validation if it is determined that a present number of other objects having the first data set in the first data arrangement have previously been accepted. Further, if the data on said object presented for validation is determined to be consistent with the data of the second data arrangement for said first data set, the method includes determining whether a preset number of other objects having the first data set in the second data arrangement have

previously been accepted, and rejecting said object presented for validation if it is determined that a present number of other objects having the first data set in the second data arrangement have previously been accepted (page 14, lines 13-19).

According to the embodiments of claim 14, determining whether data on an object presented for validation is consistent with the data of the first or second data arrangement for said first data set, the method comprises determining whether each pixel of the second plurality of pixels is consistent with a corresponding pixel of the first plurality of pixels in the first data arrangement; if each pixel of the second plurality of pixels is determined to be consistent with the corresponding pixel of the first plurality of pixels in the first data arrangement, accepting said object presented for validation, else determining whether each pixel of the second plurality of pixels is consistent with a corresponding pixel of the first plurality of pixels in the second data arrangement, and if each pixel of the second plurality of pixels is determined to be consistent with the corresponding pixel of the first plurality of pixels in the second data arrangement, accepting said object presented for validation, else rejecting said object presented for validation (page 20, line 5, through page 21, line 2).

According to the embodiments of claim 18, an anti-counterfeiting system (10 of figure 1) comprises a first data set (14 of figure 1) having data (16 of figure 1) in a first data arrangement created from an object (page 6, lines 14-16), the data within said first data set being modifiable to create a second data arrangement for said first data set (page 6, lines 16-18). The system further comprises a data reading apparatus (26 of figure 1), said data reading apparatus reading data (32 of figure 1) on an object (18 of figure 1) (page 6, line 29 through page 7, line 2), and a data processing system (24 of figure 1) operatively associated with said data reading apparatus, the data processing system receiving the data on said object from said data reading apparatus, the data processing system determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set, said object being accepted if said data processing system determines that the data on said object is consistent with the data of the first and second data arrangement for said first data set, said object being rejected if said data processing system does not determine that the data on said object is consistent with the data of the first and second data arrangement for said first data set (page 6, line 26 through page 7, line 15).

According to the embodiments of claim 19, a system includes at least one object, said at least one object comprising a memory, said first data set being transferable to the memory of said at least one object (page 8, lines 8-9).

According to the embodiments of claim 20, an anti-counterfeiting system (10 of figure 1) comprises a data processing system for modifying data within a computer readable storage device having a first data arrangement, created from an object, to create a second data arrangement for said data (page 6, lines 14-25). The data processing system is also for determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement, and for accepting said object if the data on said object is determined to be consistent with the data of the first and second data arrangement, else of rejecting said object (page 6, line 26 through page 7, line 15).

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-14, 16, and 18-20 are rejected under 35 U.S.C. § 103(a) as unpatentable over *Moore* (U.S. Patent No. 6,456,729) in view of *Rhoads* (U.S. Patent No. 6,580,819). This is the sole ground of rejection in the Final Action.

## VII. ARGUMENT

Claims 1-14, 16, and 18-20 are rejected under 35 U.S.C. § 103(a) as unpatentable over *Moore* in view of *Rhoads*. Appellant traverses the rejection.

To show obviousness under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the applied reference. *See In re Vaeck* 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck and Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Finally, the applied reference must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Without conceding the second criterion, Applicant respectfully asserts that the rejection does not satisfy the first and third criteria, as discussed further below.

A. Claims 1, 2, and 11-13

1. Failure to teach or suggest all claim limitations

Claim 1 recites “creating from an object a first data set having data in a first arrangement” and “comparing said object presented for validation to both said first and said second data arrangements.” The cited combination of *Moore* and *Rhoads* does not teach or suggest at least these limitations of claim 1. It should be noted that the rejection, itself, and the Response to Arguments portion of the Final Action rely on both *Moore* and *Rhoads* to teach or suggest these features. Accordingly, Appellant presents arguments responding to all such assertions.

For instance, the Examiner cites the passage at column 15, lines 37-46 of *Moore* to teach or suggest “creating from an object a first data set having data in a first arrangement.” Final Action at 4. The cited passage teaches the creation of data matrix symbology and the downloading of such symbology to a printer (“marker”) for imprinting on a product. It appears that the Examiner cites the data matrix symbology of *Moore* as the data set, and, further, the Examiner cites clear text of *Moore* (rather than the data matrix symbology) to show the first data arrangement and the ID matrix symbol of *Moore* as the second data arrangement. Final Action at 2. Such a position is incorrect for at least two reasons. First, it appears that *Moore* uses “data matrix symbology” as another term for the “ID matrix symbol.” *See, e.g., Moore* at Col. 15, lines 32-37. Thus, the data matrix symbology is not a data set that has both clear text (first arrangement) and an ID matrix symbol (second arrangement) because the ID matrix symbol is the same as the data matrix symbology. Second, *Moore* does not teach that the clear text is created “from an object.” *Moore* merely teaches that clear text is established by a host computer, which is not enough, without more, to teach or suggest that clear text is created “from an object.” *See id.* at Col. 11, lines 8-9. Accordingly, *Moore* does not teach or suggest “creating from an object a first data set having data in a first arrangement,” as recited in part by claim 1.

Further, *Moore* also does not teach or suggest “comparing said object presented for validation to both said first and said second data arrangements,” as recited in part by claim 1. Once again, it should be noted that the Examiner cites clear text of *Moore* to show the first data arrangement and the ID matrix symbol of *Moore* as the second data arrangement. Final Action at 2. However, *Moore* does not teach or suggest comparing an object to both clear

text and an ID matrix symbol, as asserted by the Examiner. Rather, the ID matrix symbol is converted into an ASCII string before any comparing is performed by the *Moore* system. *See Moore* at Col. 4, lines 59-67. While *Moore* does state that “marks are compared with marks residing in a database in a host computer,” *Moore* does not teach or suggest comparing an ID matrix to ID matrices in a database; rather, it appears that *Moore* teaches comparing decoded ID matrices (ASCII strings) to ASCII strings in the database. Note the passage at column 4, line 59 through column 5, line 5, of *Moore* that uses the term, “mark” to describe the information represented by an ASCII string. Thus, when *Moore* states, “marks are compared with marks residing in a database in a host computer,” it actually refers to comparing the ASCII strings. Therefore, the Examiner’s assertion that ID matrices are compared to both clear text and an ID matrix is incorrect, thereby showing that the reasoning cannot support the rejection.

On page 3 of the Final Action, the Examiner cites the passage at column 23, lines 41-52 of *Moore* to teach “comparing said object presented for validation to both said first and said second data arrangements,” as recited in part by claim 1. However, the cited passage merely teaches that matrices are compared, but does not teach how matrices are compared. As explained above, comparing matrices is performed by comparing ASCII strings, but not by comparing to both first and second data arrangements. *See Moore* at Col. 4, lines 59-67. Accordingly, *Moore* does not teach or suggest “comparing said object presented for validation to both said first and said second data arrangements,” as recited in part by claim 1.

*Rhoads* does not cure the deficiencies of *Moore* with respect to these features of claim 1. In addition to citing passages from *Moore* to teach a first data arrangement and a second data arrangement, the Examiner also cites passages from *Rhoads* to teach the first and second data arrangements as recited in claim 1: “comparing said object presented for validation to both said first and said second data arrangements.” The Examiner cites the passage at column 4, lines 43-49 of *Rhoads* to teach the first and second data arrangements. Final Action at 3. (It should be noted that in the last full paragraph of page 3 in the Final Action, the Examiner mentions only *Moore*; however, this reference appears to contain a typographical error because *Moore* does not refer to watermarks. Instead, the first part of the paragraph appears to refer to *Rhoads*, whereas the last part of the paragraph, beginning at “also the ID matrix,” appears to refer to *Moore*.) It appears the Examiner asserts that “a visible structure” is a first data arrangement and that “watermarked data” is a second data

arrangement. However, this reading runs afoul of other claim language. Specifically, claim 1 further recites “modifying the data within the first data set to create a second data arrangement for said first data set,” and *Rhoads* does not teach or suggest that watermarked data is created through modifying data within the “visible structure.” Accordingly, the Examiner’s reasoning fails to show a first and second data arrangement as set forth in the claim, and thus, the combination does not teach or suggest at least, “...comparing said object presented for validation to both said first and said second data arrangements,” as recited in part by claim 1. Thus, *Moore* in view of *Rhoads* does not teach or suggest all limitations of claim 1.

Dependent claims 2 and 11-13 each depend either directly or indirectly from independent claim 1 and, thus, inherit all of the limitations of independent claim 1. Thus, the cited combination does not teach or suggest all claim limitations of claims 2 and 11-13. It is respectfully submitted that dependent claims 2 and 11-13 are allowable at least because of their dependence from claim 1 for the reasons discussed above. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claims 1, 2, and 11-13 is respectfully requested.

## 2. Lack of Motivation to Combine

The Examiner states on pages 3 and 5 of the Final Action that it would have been obvious to modify *Moore* with the teachings of *Rhoads* because “it provides a method to track subsequent use of digital images including derivative images, which identify the source or ownership of images and distinguish between different copies and verify the authenticity of the document from forgery.” Appellant respectfully traverses this assertion.

It is well settled that the fact that references can be combined or modified is not sufficient to establish a *prima facie* case of obviousness. *See In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990), as cited in M.P.E.P. § 2143.01. The statement merely recites various features of *Moore* and *Rhoads*, but does not provide a reason why one of ordinary skill in the art would desire to combine the various features. In other words, the language of the recited motivation is circular in nature, stating that it is obvious to make the modification because it is obvious to achieve the result. Such language is merely a statement that the reference can be modified, and does not state any desirability for making the modification. The mere fact that references can be combined or modified does not render the

resultant combination obvious unless the prior art also suggests the desirability of the combination. *See Id.* Thus, the motivation provided by the Examiner is improper, as the motivation must establish the desirability for making the modification. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claims 1, 2 and 11-13 is respectfully requested.

B. Claim 3

1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claim 1, claim 3 recites features that are patentable in their own right. For instance, claim 3 recites, in part, “the data within said first data set is modified every time an object is provided with said first data set.” The cited combination does not teach or suggest at least this feature of claim 3. The Examiner relies on *Moore* at column 22, lines 33-45, to teach the feature; however, the cited passage merely teaches modifying code to include destination information to be imprinted on goods. It does not teach or suggest that data is modified every time an object is provided with said first data set. In other words, the cited passage merely teaches that code can be modified, not that it is modified every time an object is provided with said first data set. Accordingly, *Moore* does not teach or suggest the recited feature. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the feature. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 3. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 3 is respectfully requested.

2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 3. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 3 is respectfully requested.

### C. Claim 4

#### 1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claim 1, claim 4 recites features that are patentable in their own right. For instance, claim 4 recites, in part, “an attribute of the data within said first data set is modified every time an object is provided with said first data set.” The cited combination does not teach or suggest at least this feature of claim 4. The Examiner relies on *Moore* at column 30, lines 45-56, to teach the feature; however, the cited passage merely teaches scanning an encoded symbol that has emissive ink. It does not teach or suggest that an attribute of data is modified every time an object is provided with said first data set. In fact, it does not mention or suggest modifying an attribute of data at all. Accordingly, *Moore* does not teach or suggest the recited feature. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the feature. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 4. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 4 is respectfully requested.

#### 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 4. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 4 is respectfully requested.

### D. Claim 5

#### 1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claim 1, claim 5 recites features that are patentable in their own right. For instance, claim 5 recites, in part, “determining whether another object having the first data set in the first data arrangement has previously been accepted,” and “determining whether another object having the first data set in the second data arrangement has previously been accepted.” The cited combination does not teach or suggest at least these features of claim 5. The Examiner relies on *Moore* at column 11, lines 9-24, to teach the features; however, the cited passage merely teaches

continuous validation of a stream of products. It does not teach or suggest determining whether an object has been previously accepted, much less objects having the first data set in the first and second data arrangements. In fact, it does not mention or suggest determining whether an object has been previously accepted at all. Accordingly, *Moore* does not teach or suggest the recited features. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the features. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 5. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 5 is respectfully requested.

## 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 5. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 5 is respectfully requested.

## E. Claims 6-8

### 1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claim 1, claim 6 recites features that are patentable in their own right. For instance, claim 6 recites, in part, “said at least one object includes a memory, and wherein providing at least one object with said first data set comprises transferring the first data set to said memory.” The cited combination does not teach at least this feature of claim 6. The Examiner relies on *Moore* at column 13, lines 49-59, to teach the feature. The cited passage teaches memory in an enigma card. However, *Moore* teaches that the enigma card is not included in an object. Rather, *Moore* teaches that enigma cards are placed in communicating computers to encrypt and decrypt messages that are sent there between. *See* Col. 6, lines 36-41. It does not teach or suggest that the cited memory is included in the claimed at least one object. Accordingly, *Moore* does not teach or suggest the recited feature. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the feature. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 6.

Dependent claims 7 and 8 each depend either directly or indirectly from claim 6 and, thus, inherit all of the limitations of claim 6. Thus, the cited combination does not teach or suggest all claim limitations of claims 7 and 8. It is respectfully submitted that dependent claims 7 and 8 are allowable at least because of their dependence from claim 6 for the reasons discussed above. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claims 6-8 is respectfully requested.

## 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claims 6-8. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claims 6-8 is respectfully requested.

## F. Claim 9

### 1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claim 1, claim 4 recites features that are patentable in their own right. For instance, claim 9 recites, in part, “providing a plurality of objects with said first data set, and wherein the data within said first data set is modified after a preset number of the plurality of objects have been provided with said first data set.” The cited combination does not teach or suggest at least this feature of claim 9. The Examiner relies on *Moore* at figure 1a and column 10, lines 17-28, to teach the feature; however, the cited portions merely teach sizing packages. The cited portions do not teach or suggest that the data within the first data set is modified after a preset number of the plurality of objects have been provided. In fact, the cited portions do not teach or suggest modifying data at all, much less after a preset number of objects have been provided. Accordingly, *Moore* does not teach or suggest the recited feature. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the feature. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 9. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 9 is respectfully requested.

## 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 9. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 9 is respectfully requested.

## G. Claim 10

### 1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claims 1 and 9, claim 10 recites features that are patentable in their own right. For instance, claim 10 recites, in part, “determining whether a preset number of other objects having the first data set in the first data arrangement have been accepted,” and “determining whether a preset number of other objects having the first data set in the second data arrangement have previously been accepted.” The cited combination does not teach or suggest at least these features of claim 10. It appears that the Examiner relies on *Moore* at column 11, lines 9-24, to teach the features. *See* Final Action at 7. However, the cited passage merely teaches continuous validation of a stream of products. It does not teach or suggest determining whether a preset number of objects have been previously accepted, much less a preset number of objects having the first data set in the first and second data arrangements. In fact, it does not mention or suggest determining whether an object has been previously accepted at all. Accordingly, *Moore* does not teach or suggest the recited feature. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the feature. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 10. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 10 is respectfully requested.

## 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 10. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 10 is respectfully requested.

#### H. Claim 14

##### 1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claim 1, claim 14 recites features that are patentable in their own right. For instance, claim 14 recites, in part, “determining whether each pixel of the second plurality of pixels is consistent with a corresponding pixel of the first plurality of pixels in the first data arrangement,” and “determining whether each pixel of the second plurality of pixels is consistent with a corresponding pixel of the first plurality of pixels in the second data arrangement.” The cited combination does not teach at least these features of claim 14. It appears that the Examiner relies on *Moore* at column 11, lines 42-56, to teach the features; however, the cited passage merely teaches validating an identifying message. It appears that the *Moore* system compares ASCII strings decoded from the symbols rather than determining if a pixel is consistent with a corresponding pixel. *See Moore* at Col. 4, lines 59-67. Accordingly, *Moore* does not teach or suggest the recited feature. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the feature. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 14. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 5 is respectfully requested.

##### 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 14. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 14 is respectfully requested.

#### I. Claim 18

The Examiner rejects claim 18 under the same logic used to reject claim 1. Final Action at 7. Therefore, Appellant refers to passages rejecting claim 1 in response to the rejection of claim 18.

1. Failure to teach or suggest all claim limitations

Claim 18 recites “a first data set having data in a first data arrangement created from an object” and “the data processing system determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set.” The cited combination of *Moore* and *Rhoads* does not teach or suggest at least these limitations of claim 18. It should be noted that the rejection, itself, and the Response to Arguments portion of the Final Action rely on both *Moore* and *Rhoads* to teach or suggest these features.

Accordingly, Appellant presents arguments responding to all such assertions.

For instance, it appears that the Examiner cites the passage at column 15, lines 37-46 of *Moore* to teach or suggest “a first data set having data in a first data arrangement created from an object.” Final Action at 4. The cited passage teaches the creation of data matrix symbology and the downloading of such symbology to a printer (“marker”) for imprinting on a product. It appears that the Examiner cites the data matrix symbology of *Moore* as the data set, and, further, the Examiner cites clear text of *Moore* (rather than the data matrix symbology) to show the first data arrangement and the ID matrix symbol of *Moore* as the second data arrangement. Final Action at 2. Such a position is incorrect for at least two reasons. First, it appears that *Moore* uses “data matrix symbology” as another term for the “ID matrix symbol.” *See, e.g., Moore* at Col. 15, lines 32-37. Thus, the data matrix symbology is not a data set that has both clear text (first arrangement) and an ID matrix symbol (second arrangement) because the ID matrix symbol is the same as the data matrix symbology itself. Second, *Moore* does not teach that the clear text is “created from an object.” *Moore* merely teaches that clear text is established by a host computer, which is not enough, without more, to teach or suggest that clear text is “created from an object.” *See id.* at Col. 11, lines 8-9. Accordingly, *Moore* does not teach or suggest “a first data set having data in a first data arrangement created from an object,” as recited in part by claim 18.

Further, *Moore* also does not teach or suggest “the data processing system determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set,” as recited in part by claim 18. Once again, it should be noted that the Examiner cites clear text of *Moore* to show the first data arrangement and the ID matrix symbol of *Moore* as the second data arrangement. Final Action at 2. However, *Moore* does not teach or suggest determining whether the data on an object is consistent with

both clear text and an ID matrix symbol, as asserted by the Examiner. Rather, the ID matrix symbol is converted into an ASCII string before any determining is performed by the *Moore* system. *See Moore* at Col. 4, lines 59-67. While *Moore* does state that “marks are compared with marks residing in a database in a host computer,” *Moore* does not teach or suggest determining whether ID matrix is consistent with ID matrices in a database; rather, *Moore* teaches comparing decoded ID matrices (ASCII strings) to ASCII strings in the database. Note the passage at column 4, line 59 through column 5, line 5, of *Moore* that uses the term, “mark” to describe the information represented by an ASCII string. Thus, when *Moore* states, “marks are compared with marks residing in a database in a host computer,” it actually refers to comparing the ASCII strings rather than symbols. Therefore, the Examiner’s assertion that ID matrices are compared to both clear text and an ID matrix is incorrect, thereby showing that the reasoning cannot support the rejection.

On page 3 of the Final Action, the Examiner cites the passage at column 23, lines 41-52 of *Moore* to teach “determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set,” as recited in part by claim 18. However, the cited passage merely teaches that matrices are compared, but does not teach how matrices are compared. As explained above, comparing matrices is performed by comparing ASCII strings, but not by determining whether the data on said object is consistent with data of both first and second data arrangements. Accordingly, *Moore* does not teach or suggest “the data processing system determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set,” as recited in part by claim 18.

*Rhoads* does not cure the deficiencies of *Moore* with respect to these features of claim 18. In addition to citing passages from *Moore* to teach a first data arrangement and a second data arrangement, the Examiner also cites passages from *Rhoads* to teach the first and second data arrangements as recited in claim 18: “determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set.” The Examiner cites the passage at column 4, lines 43-49 of *Rhoads* to teach the first and second data arrangements. Final Action at 3. (It should be noted that in the last full paragraph of page 3 in the Final Action, the Examiner mentions only *Moore*; however, this reference appears to contain a typographical error because *Moore* does not refer to watermarks. Instead, the first part of the paragraph appears to refer to *Rhoads*, whereas the last part of the

paragraph, beginning at “also the ID matrix,” appears to refer to *Moore*.) It appears the Examiner asserts that “a visible structure” is a first data arrangement and that “watermarked data” is a second data arrangement. However, this reading runs afoul of other claim language. Specifically, claim 18 also recites “the data within the first data set being modifiable to create a second data arrangement,” and *Rhoads* does not teach or suggest that watermarked data is created through modifying data within the “visible structure.” Accordingly, the Examiner’s reasoning fails to show a first and second data arrangement as set forth in the claim, and thus, the combination does not teach or suggest at least, “determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set,” as recited in part by claim 18.

Thus, *Moore* in view of *Rhoads* does not teach or suggest all limitations of claim 18. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 18 is respectfully requested.

## 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 18. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 18 is respectfully requested.

## J. Claim 19

### 1. Failure to teach or suggest all claim limitations

In addition to being patentable because of its dependence from claim 18, claim 19 recites features that are patentable in their own right. For instance, claim 19 recites, in part, “said at least one object comprising a memory, said first data set being transferable to the memory of said at least one object.” The cited combination does not teach or suggest at least this feature of claim 19. It appears that the Examiner relies on *Moore* at column 13, lines 49-59, to teach the feature. Final Action at 7. The cited passage teaches memory in an enigma card. However, *Moore* teaches that the enigma card is not included in an object. Rather, *Moore* teaches that enigma cards are placed in communicating computers to encrypt and decrypt messages. See Col. 6, lines 36-41. It does not teach or suggest that the cited memory

is included in the claimed at least one object. Accordingly, *Moore* does not teach or suggest the recited feature. The Examiner does not rely on *Rhoads*, nor does *Rhoads* teach or suggest the feature. Therefore, the combination of *Moore* and *Rhoads* does not teach or suggest every feature of claim 19. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 19 is respectfully requested.

## 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 19. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 19 is respectfully requested.

## K. Claim 20

The Examiner rejects claim 20 under the same logic used to reject claim 1. Final Action at 7. Therefore, Appellant refers to passages rejecting claim 1 in response to the rejection of claim 20.

### 1. Failure to teach or suggest all claim limitations

Claim 20 recites “... data within a computer readable storage device having a first data arrangement, created from an object,” and “determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement.” The cited combination of *Moore* and *Rhoads* does not teach or suggest at least these limitations of claim 20. It should be noted that the rejection, itself, and the Response to Arguments portion of the Final Action rely on both *Moore* and *Rhoads* to teach or suggest these features. Accordingly, Appellant presents arguments responding to all such assertions.

For instance, it appears that the Examiner cites the passage at column 15, lines 37-46 of *Moore* to teach or suggest “data within a computer readable storage device having a first data arrangement, created from an object.” Final Action at 4. The cited passage teaches the creation of data matrix symbology and the downloading of such symbology to a printer (“marker”) for imprinting on a product. It appears that the Examiner cites the data matrix

symbology of *Moore* as the data set, and, further, the Examiner cites clear text of *Moore* (rather than the data matrix symbology) to show the first data arrangement and the ID matrix symbol of *Moore* as the second data arrangement. Final Action at 2. Such a position is incorrect for at least two reasons. First, it appears that *Moore* uses “data matrix symbology” as another term for the “ID matrix symbol.” *See, e.g., Moore* at Col. 15, lines 32-37. Thus, the data matrix symbology is not a data set that has both clear text (first arrangement) and an ID matrix symbol (second arrangement) because the ID matrix symbol is the same as the data matrix symbology itself. Second, *Moore* does not teach that the clear text is “created from an object.” *Moore* merely teaches that clear text is established by a host computer, which is not enough, without more, to teach or suggest that clear text is “created from an object.” *See id.* at Col. 11, lines 8-9. Accordingly, *Moore* does not teach or suggest “data within a computer readable storage device having a first data arrangement, created from an object,” as recited in part by claim 20.

Further, *Moore* also does not teach or suggest “determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement,” as recited in part by claim 20. Once again, it should be noted that the Examiner cites clear text of *Moore* to show the first data arrangement and the ID matrix symbol of *Moore* as the second data arrangement. Final Action at 2. However, *Moore* does not teach or suggest determining whether the data on an object is consistent with both clear text and an ID matrix symbol, as asserted by the Examiner. Rather, the ID matrix symbol is converted into an ASCII string before any determining is performed by the *Moore* system. *See Moore* at Col. 4, lines 59-67. While *Moore* does state that “marks are compared with marks residing in a database in a host computer,” *Moore* does not teach or suggest determining whether ID matrix is consistent with ID matrices in a database; rather, *Moore* teaches comparing decoded ID matrices (ASCII strings) to ASCII strings in the database. Note the passage at column 4, line 59 through column 5, line 5, of *Moore* that uses the term, “mark” to describe the information represented by an ASCII string. Thus, when *Moore* states, “marks are compared with marks residing in a database in a host computer,” it actually refers to comparing the ASCII strings. Therefore, the Examiner’s assertion that ID matrices are compared to both clear text and an ID matrix is incorrect, thereby showing that the reasoning cannot support the rejection.

On page 3 of the Final Action, the Examiner cites the passage at column 23, lines 41-52 of *Moore* to teach “determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement,” as recited in part by claim 20. However, the cited passage merely teaches that matrices are compared, but does not teach how matrices are compared. As explained above, comparing matrices is performed by comparing ASCII strings, but not by determining whether the data on said object is consistent with data of both first and second data arrangements. *See Moore* at Col. 4, lines 59-67. Accordingly, *Moore* does not teach or suggest “determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement,” as recited in part by claim 20.

*Rhoads* does not cure the deficiencies of *Moore* with respect to these features of claim 20. In addition to citing passages from *Moore* to teach a first data arrangement and a second data arrangement, it appears that the Examiner also cites passages from *Rhoads* to teach the first and second data arrangements as recited in claim 20: “determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement.” The Examiner cites the passage at column 4, lines 43-49 of *Rhoads* to teach the first and second data arrangements. Final Action at 3. (It should be noted that in the last full paragraph of page 3 in the Final Action, the Examiner mentions only *Moore*; however, this reference appears to contain a typographical error because *Moore* does not refer to watermarks. Instead, the first part of the paragraph appears to refer to *Rhoads*, whereas the last part of the paragraph, beginning at “also the ID matrix,” appears to refer to *Moore*.) It appears the Examiner asserts that “a visible structure” is a first data arrangement and that “watermarked data” is a second data arrangement. However this runs afoul of other claim language. Specifically, claim 20 recites “modifying data...having a first data arrangement...to create a second data arrangement,” and *Rhoads* does not teach or suggest that watermarked data is created through modifying data within the “visible structure.” Accordingly, the Examiner’s reasoning fails to show a first and second data arrangement as set forth in the claim, and thus, the combination does not teach or suggest at least, “determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement,” as recited in part by claim 20.

Thus, *Moore* in view of *Rhoads* does not teach or suggest all limitations of claim 20. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 20 is respectfully requested.  
25601510.1

## 2. Lack of Motivation to Combine

As explained above with regard to claim 1, the combination of *Moore* and *Rhoads* lacks proper motivation to combine the two references. For the convenience of the Board, Appellant does not repeat the argument herein, but instead, requests the same argument be considered with regard to claim 20. Accordingly, reversal of the 35 U.S.C. §103(a) rejection of claim 20 is respectfully requested.

## VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A. Because claims 15 and 17 are not rejected, they are not part of the appeal and have, accordingly, been omitted from the copy of claims.

## IX. EVIDENCE

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

## X. RELATED PROCEEDINGS

No related proceedings are referenced in II. above, or copies of decisions in related proceedings are not provided.

Dated: December 22, 2005

Respectfully submitted,

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482723785US, in an envelope addressed to:  
MS Appeal Brief, Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450, on the date shown below.

Dated: December 22, 2005

Signature: Donna Forbit  
Donna Forbit

By R. Ross Viguet  
R. Ross Viguet  
Registration No.: 42,203  
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(214) 855-8185

**APPENDIX A**

**Claims Involved in the Appeal of Application Serial No. 09/774,728**

1. An anti-counterfeiting method, comprising:
  - creating from an object a first data set having data in a first data arrangement;
  - modifying the data within said first data set to create a second data arrangement for said first data set;
  - determining whether data on an object presented for validation is consistent with the data of the first or second data arrangement for said first data set by comparing said object presented for validation to both said first and said second data arrangements; and
  - if the data on said object presented for validation is determined to be consistent with the data of the first or second data arrangement for said first data set, accepting said object presented for validation, else rejecting said object presented for validation.
2. The method of claim 1, further comprising, providing at least one object with said first data set.
3. The method of claim 2, wherein the data within said first data set is modified every time an object is provided with said first data set.
4. The method of claim 2, wherein an attribute of the data within said first data set is modified every time an object is provided with said first data set.

5. The method of claim 2, further comprising:

if the data on said object presented for validation is determined to be consistent with the data of the first data arrangement for said first data set:

determining whether another object having the first data set in the first data arrangement has previously been accepted;

rejecting said object presented for validation if it is determined that another object having the first data set in the first data arrangement has previously been accepted;

if the data on said object presented for validation is determined to be consistent with the data of the second data arrangement for said first data set:

determining whether another object having the first data set in the second data arrangement has previously been accepted; and

rejecting said object presented for validation if it is determined that another object having the first data set in the second data arrangement has previously been accepted.

6. The method of claim 2, wherein said at least one object includes a memory, and wherein providing at least one object with said first data set comprises transferring the first data set to said memory.

7. The method of claim 6, wherein said at least one object further comprises a microprocessor, the microprocessor modifying the data within the first data set transferred to said memory to create a plurality of data arrangements for the first data set transferred to said memory, said memory storing at least one of said plurality of data arrangements.

8. The method of claim 7, wherein said at least one object further comprises a clock, said microprocessor accessing the clock to modify the first data set transferred to said memory according to a time interval.

9. The method of claim 1, further comprising, providing a plurality of objects with said first data set, and wherein the data within said first data set is modified after a preset number of the plurality of objects have been provided with said first data set.

10. The method of claim 9, further comprising:

if the data on said object presented for validation is determined to be consistent with the data of the first data arrangement for said first data set:

determining whether a preset number of other objects having the first data set in the first data arrangement have been accepted;

rejecting said object presented for validation if it is determined that a present number of other objects having the first data set in the first data arrangement have previously been accepted;

if the data on said object presented for validation is determined to be consistent with the data of the second data arrangement for said first data set:

determining whether a preset number of other objects having the first data set in the second data arrangement have previously been accepted; and

rejecting said object presented for validation if it is determined that a present number of other objects having the first data set in the second data arrangement have previously been accepted.

11. The method of claim 1, further comprising, maintaining a record of the first and second data arrangements for said first data set.

12. The method of claim 1, wherein said first data set comprises a first bitmap of image data representative of a first image, the first bitmap of image data including a first plurality of pixels, and wherein modifying the data within said first data set comprises changing at least one attribute of at least one of said first plurality of pixels.

13. The method of claim 12, wherein the data on said object presented for validation comprises a second bitmap of image data representative of a second image, the second bitmap of image data including a second plurality of pixels.

14. The method of claim 13, wherein determining whether data on an object presented for validation is consistent with the data of the first or second data arrangement for said first data set comprises:

determining whether each pixel of the second plurality of pixels is consistent with a corresponding pixel of the first plurality of pixels in the first data arrangement;

if each pixel of the second plurality of pixels is determined to be consistent with the corresponding pixel of the first plurality of pixels in the first data arrangement, accepting said object presented for validation, else:

determining whether each pixel of the second plurality of pixels is consistent with a corresponding pixel of the first plurality of pixels in the second data arrangement; and

if each pixel of the second plurality of pixels is determined to be consistent with the corresponding pixel of the first plurality of pixels in the second data arrangement, accepting said object presented for validation, else rejecting said object presented for validation.

15. The method of claim 13, wherein determining whether data on an object presented for validation is consistent with the data of the first or second data arrangement for said first data set comprises:

calculating a first reference sum for the first plurality of pixels in the first data arrangement;

calculating a second reference sum for said second plurality of pixels;

determining whether said second reference sum is consistent with said first reference sum;

if the second reference sum is determined to be consistent with the first reference sum, accepting said object presented for validation, else:

calculating a third reference sum for the first plurality of pixels in the second data arrangement;

determining whether said second reference sum is consistent with said third reference sum; and

if the second reference sum is determined to be consistent with the third reference sum, accepting said object presented for validation, else rejecting said object presented for validation.

16. The method of claim 13, further comprising, displaying said first and second images.

17. The method of claim 1, wherein said first data arrangement has a first time stamp associated therewith, wherein said second data arrangement has a second time stamp associated therewith, wherein said data on said object presented for validation has a third time stamp associated therewith, and wherein determining whether data on an object presented for validation is consistent with the data of the first or second data arrangement for said first data set comprises:

determining whether the third time stamp is consistent with the first or second time stamp;

if the third time stamp is determined to be consistent with the first time stamp, rejecting said object presented for validation unless it is determined that the data on said object presented for validation is consistent with the data of the first data arrangement for said first data set;

if the third time stamp is determined to be consistent with the second time stamp, rejecting said object presented for validation unless it is determined that the data on said object presented for validation is consistent with the data of the second data arrangement for said first data set; and

if the third time stamp is not determined to be consistent with the first or second time stamp, rejecting said object presented for validation.

18. An anti-counterfeiting system, comprising:

a first data set having data in a first data arrangement created from an object, the data within said first data set being modifiable to create a second data arrangement for said first data set;

data reading apparatus, said data reading apparatus reading data on an object; and

a data processing system operatively associated with said data reading apparatus, the data processing system receiving the data on said object from said data reading apparatus, the data processing system determining whether the data on said object is consistent with the data of the first and second data arrangements for said first data set, said object being accepted if said data processing system determines that the data on said object is consistent with the data of the first and second data arrangement for said first data set, said object being rejected if said data processing system does not determine that the data on said object is consistent with the data of the first and second data arrangement for said first data set.

19. The anti-counterfeiting system of claim 18, further comprising at least one object, said at least one object comprising a memory, said first data set being transferable to the memory of said at least one object.

20. An anti-counterfeiting system, comprising:

a data processing system for modifying data within a computer readable storage device having a first data arrangement, created from an object, to create a second data arrangement for said data, for determining whether data on an object presented for validation is consistent with the data of the first and second data arrangement, and for accepting said object if the data on said object is determined to be consistent with the data of the first and second data arrangement, else of rejecting said object.

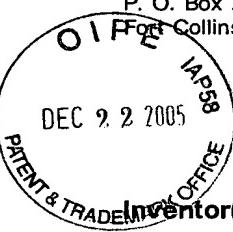
**APPENDIX B**

**None**

**APPENDIX C**

**None**

12-23-05



IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Jacklyn M. Dowdy

Confirmation No.: 2670

Application No.: 09/774,728

Examiner: S. H. Azarian

Filing Date: 01/31/2001

Group Art Unit: 2625

Title: ANTI-COUNTERFEITING METHOD AND SYSTEM

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PO Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 11/10/2005.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

- |                  |           |
|------------------|-----------|
| ( ) one month    | \$120.00  |
| ( ) two months   | \$450.00  |
| ( ) three months | \$1020.00 |
| ( ) four months  | \$1590.00 |

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$500.00. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Jacklyn M. Dowdy

By R. Ross Viguet

R. Ross Viguet

Attorney/Agent for Applicant(s)  
Reg. No. 42,203

Date: 12/22/2005

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482723785US, in an envelope addressed to:  
MS Appeal Brief, Commissioner for Patents, P.O. Box 1450,  
Alexandria, VA 22313-1450, on the date shown below.

Dated: December 22, 2005

Signature: Donna Forbit  
Donna Forbit

Telephone No.: 214-855-8185